

THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

RAHEEM BRENNERMAN,

Petitioner,

v.

D.K. WHITE,

Respondent.

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: CIVIL ACTION NO. 3:20-CV-1069  
: (JUDGE MARIANI)  
: (Magistrate Judge Carlson)  
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ORDER

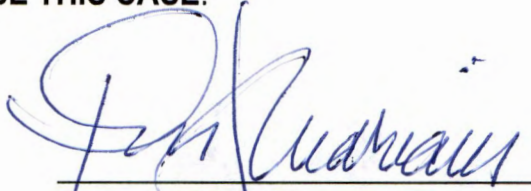
AND NOW, THIS 22nd DAY OF FEBRUARY 2021, upon review of Magistrate Judge Martin C. Carlson's Report and Recommendation ("R&R") (Doc. 18), **IT IS HEREBY ORDERED THAT:**

1. The R&R (Doc. 18) is **ADOPTED in part**;<sup>1</sup>

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<sup>1</sup> The R&R is adopted as to the threshold determination that Petitioner has not exhausted administrative remedies. (See Doc. 18 at 6-10.) A determination on the merits of the Petition will not be made at this time. Petitioner filed objections to the R&R on January 4, 2021, disagreeing with the recommendations regarding the impact of Petitioner's detainer, exhaustion of administrative remedies, and the Court's inability to review a BOP determination concerning the CARES Act. (Doc. 20 at 1-3.) Petitioner also asserts that the R&R "misapprehended the core argument," i.e., his Fifth Amendment equal protection claim that the BOP's actions applying the CARES Act creates disparity among inmates. (Doc. 20 at 2-3.) Petitioner is correct that the R&R did not address an equal protection claim. (See Doc. 23.) However, Petitioner's equal protection argument was not raised in his Petition (Doc. 1) but in later filings. (See, e.g., Doc. 10 at 5.) Petitioner requests that he be allowed to withdraw his petition without prejudice to preserve issues and arguments. (Doc. 20 at 3.) Following the filing of Respondent's response to Petitioner's objections (Doc. 23), Petitioner requested either a sixty-day extension to further respond to the Report and Recommendation or to be permitted to withdraw his Petition without prejudice. (Doc. 24.) Given this procedural posture, the Court concludes that the best course of action is to adopt the R&R regarding the exhaustion issue and deny the Petition without prejudice.

2. The “Emergency Petition for Writ of Habeas Corpus Pursuant to 28 United States Code Section 2241 (28 U.S.C.S. 2241)” (Doc. 1) is **DENIED without prejudice** for failure to exhaust administrative remedies;
3. Petitioner’s Motion to Expedite (Doc. 12) is **DEEMED MOOT**;
4. Petitioner’s request for an extension of time to file further objections to the R&R (Doc. 24) is **DEEMED MOOT**;
5. There is no basis for the issuance of a Certificate of Appealability;
6. The Clerk of Court is directed to **CLOSE THIS CASE.**



Robert D. Mariani  
United States District Judge